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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/994,921	11/28/2001	Robert D. Budic	85700-0054	7431	
24633	7590 07/15/2003				
HOGAN & HARTSON LLP IP GROUP, COLUMBIA SQUARE 555 THIRTEENTH STREET, N.W. WASHINGTON, DC 20004			EXAMINER		
		LOBO, IAN J		IAN J	
WASHINGIC	N, DC 20004		ART UNIT	PAPER NUMBER	
			3662		
			DATE MAILED: 07/15/2003	DATE MAILED: 07/15/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.	•						
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE Of this communication appears on the cover sh t with th correspond noe address— Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.53(a). In no event, however, may a reply be timely filled. If the period for reply specified above, the maximum stabilizery period will apply and will agus is SIX (b) MONTH'S term the making date of this communication of the for reply is period above, the maximum stabilizery period will apply and will agus is SIX (b) MONTH'S term the making date of this communication, when if timely filled, may reduce any searched by the Official term in their normical entries the making date of this communication, when if timely filled, may reduce any searched placed for reply is period by the Circ later than their normical entries the making date of this communication, when if timely filled, may reduce any searched placed for reply is period by the fill the search of the communication is non-final. 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disp stition of Claims 4) ☐ Claim(s) 1.46 is/are pending in the application. 4a) ☐ the above claim(s) 1.21 and 28-45 is/are withdrawn from consideration. 5) ☐ Claim(s) 22-22 is/are allowed. 6) ☐ Claim(s) 24 is/are rejected. 7) ☐ Claim(s) 24 is/are rejected to. 8) ☐ Claim(s) 46 is/are rejected to. 9) ☐ The specification is objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) ☐ The proposed drawing correction filled on is 3.0 ☐ accepted or b ☐ objected to by the Examiner. If approved, corrected drawings are required in reply to this Office action.			Application No.	Applicant(s)			
Inst. Lobo 3652			09/994,921	BUDIC, ROBERT D.			
The MAILING DATE of this communication appears on the cover sh		Office Action Summary	Examin r	Art Unit			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the gravitiens of 37 CFR 1.35(ii). In no event, however, may a reply be limitely filed Extensions of time may be available under the gravitiens of 37 CFR 1.35(ii). In no event, however, may a reply be limitely filed Extensions of time may be available under the gravitiens of 37 CFR 1.35(ii). In no event, however, may a reply be limitely filed Extensions of the may be available under the gravitiens of 37 CFR 1.35(ii). In no event, however, may a reply be limitely filed Extensions of the major and the statute of the statute of the statute of the provisional statute of the stat							
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2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disp sitton of Claims 4) Claim(s) 1-46 is/are pending in the application. 4a) Of the above claim(s) 1-21 and 28-45 is/are withdrawn from consideration. 5) Claim(s) 22-27 is/are allowed. 6) Claim(s) 46 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is/are in paproved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. **Attachment(e)	THE I - Exter after - If the - If NO - Failu - Any r earne	MAILING DATE OF THIS COMMUNICATION asions of time may be available under the provisions of 37 CFR 1 SIX (6) MONTHS from the mailing date of this communication. period for reply specified above is less than thirty (30) days, a reperiod for reply is specified above, the maximum statutory perior to reply within the set or extended period for reply will, by statuely received by the Office later than three months after the mailing	.136(a). In no event, however, may a reply ply within the statutory minimum of thirty (3 I will apply and will expire SIX (6) MONTHS te, cause the application to become ABAN	be timely filed O) days will be considered timely. S from the mailing date of this communication. DONED (35 U.S.C. § 133).			
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DETAILED ACTION

1. This application contains claims 1-21 and 28-45 drawn to an invention nonelected with traverse in Paper No. 10. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Drawings

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on April 30, 2003 have been approved.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in-
- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).
- 4. Claim 46 is rejected under 35 U.S.C. 102(e) as being anticipated by the Baugh et al patent publications.

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The applied reference <u>may</u> have a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

See Fig. 1 of either publication.

5. Claim 46 is rejected under 35 U.S.C. 102(b) as being anticipated by the patent to Gjessing et al ('868).

See Fig. 1.

Allowable Subject Matter

6. Claims 22-27 are allowed.

Response to Arguments

7. Applicant's arguments filed April 30, 2003 have been fully considered but they are not persuasive.

With respect to the argument that the Baugh et al patent publications are disqualified as prior art, applicant is reminded that to the statement as to common assignment must include a statement that the inventions were owned by or subject to an assignment to, the same person(s), at the time the invention was made. There is

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no such statement. Further, common assignee and common entity are not the same. In the instant case, there may be a common assignee but the common entity is different. Therefore, the commonly assigned publications, as assumed, are not disqualified as prior art since the common entity is different.

With respect to applicant's argument that the Gjessing et al patent does not "provide an estimate of a delay of scattered signal components within said received data", a review of claim 46 does not include such recitation and thus, the argument is not commensurate in scope with the instant claim.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to lan J. Lobo whose telephone number is (703) 306-4161. The examiner can normally be reached on Mon - Fri, 6:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza can be reached on (703) 306-4171. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

lan J. Lobo Primary Examiner

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ijl July 14, 2003